

12.205 TRAFFIC ENFORCEMENT

Reference:

Procedure 12.225 - Vehicular Crash Reporting
 Procedure 12.240 - Ohio Multi-count Uniform Traffic Ticket (MUTT)
 Procedure 12.537 - Mobile Video Recording Equipment
 Procedure 12.555 - Arrest/Citation: Processing of Adult Misdemeanor and Felony Offenders
 Procedure 12.900 - Processing Juvenile Offenders
 Procedure 19.140 - Outside Employment
 Procedure 12.554 - Investigatory Stops
 Cincinnati Municipal Code Chapter V
 City of Cincinnati Police Pamphlet
 Ohio Revised Code - Motor Vehicle Laws
 Standards Manual 1.2.6; 1.2.7; 1.2.9; 61.1.1; 61.1.2; 61.1.5; 61.1.6; 61.1.8; 61.1.9; 61.4.1; 61.4.2;
 City Ordinance 88-2001

Purpose:

To afford the public a fair measure of enforcement consistent with the objectives of efficient traffic regulation, accident investigation, and relieving traffic congestion.

To employ discretion as directed in borderline cases when:

- There is a reasonable possibility of human error in judgment on the part of either the police officer or the public.
- There is a logical possibility of malfunction of mechanical equipment without knowledge or intent on the part of the driver.
- The content of the particular law, which was violated, is not common knowledge.

Policy:

No law enforcement agency should condone or promote the use of any illegal profiling system in their enforcement program. Any member of the Department who engages in illegal profiling shall be subject to disciplinary action, in accordance with applicable civil service law, up to and including dismissal, and may face claims of civil rights violations in Federal court.

Officers must ensure video and audio recording equipment is activated when operating in emergency mode and when participating in traffic stops and pursuits. Recording will continue until the traffic stop is completed and the stopped vehicle departs, or until the officer's participation in the stop ends.

Except in exigent circumstances, when a citizen is stopped or detained and then released as part of an investigation, the officer will explain to the citizen in a professional, courteous manner why he or she was stopped or detained.

For purpose of the above sentence, the term "exigent circumstances" refers only to those conditions occurring after the stop has been made which, for safety reasons, would make it unreasonable for the officer to remain at the scene of the stop to explain the basis for the stop.

Information:

The Cincinnati Municipal Code Ordinance No.88-2001 requires the collection of the following information for all motor vehicle stops:

- The number of vehicle occupants;
- Characteristics of race, color, ethnicity, gender and age of such persons, provided the identification of such characteristics shall be based on the observation and perception of the police officer responsible for reporting the stop and the information shall not be required to be provided by the person stopped;
- The nature of the stop;
- The location of the stop;
- If an arrest was made, the misdemeanor or crime charged;
- If a search was conducted, whether the individual consented to the search, the probable cause for the search, whether the individual's property was searched, and the duration of the search;
- Whether any contraband was discovered in the course of the search and the type of any contraband discovered;
- Any additional information that the Police Chief deems appropriate.

This information will be collected on a Form 534, Contact Card. Officers are required to complete a Contact Card for all motor vehicle stops.

Procedure:

A. Traffic Enforcement

1. On-duty enforcement will be guided by the following:
 - a. On ALL motor vehicle traffic stops, officers will complete a Contact Card and submit it with their worksheets at the end of the shift.
 - b. When participating in traffic stops, officers must ensure video and audio equipment is activated.
 - c. Take appropriate enforcement action whenever a violation is detected, including provable violations determined as the result of accident investigations.
 - 1) Handle juvenile traffic offenders as outlined in Procedure 12.900, Processing Juvenile Offenders.
 - d. Traffic law enforcement activities will be primarily but not exclusively selective; e.g., directed toward accident causing violations.
 - e. Officers will not engage in at rest patrol or stationary observation during the heavy traffic hours of 0600-0900 and 1500-1800 weekdays, other than holidays, except while performing speed enforcement in school zones.
 - 1) Traffic enforcement activities will include locating and relieving traffic congestion and hazards on arterial highways, minimizing interference with the flow of traffic, and being alert to traffic conditions.
 - f. Objectively enforce parking regulations.

- g. Members encountering problem conditions which are the responsibility of other city agencies (Traffic and Road Operations Division, Public Utilities, etc.) will complete a Form 318, Report of Conditions Affecting Other Departments, in triplicate and distribute as follows:
 - 1) Fax a copy of the Form 318 to Public Services, Customer Service at 591-6027.
 - 2) Original is sent to Public Services, Customer Service via interdepartmental mail.
 - 3) Copy to the City Solicitor's Office.
 - 4) Copy filed at the initiating unit.
- h. When traffic violators are stopped for violations, which under normal conditions, merit a citation, and the officer involved believes a physical arrest on the traffic violation is necessary, he will call his supervisor to the scene. The responding supervisor will make the final decision.
 - 1) If the traffic violator conducts himself in a disorderly manner, or when there is a violation other than a traffic offense, the officer may decide to arrest and use discretion in requesting a supervisor to respond.
- i. In order for a person to legally drive a vehicle in Ohio, a person must be legally licensed (ORC §4507.02). That means either this state, or some other state has conferred upon the driver the privilege to drive, and that privilege is still in effect. There is no requirement for the operator of a motor vehicle to carry, or have about his person, a drivers license. Consequently, the mere lack of a drivers license on his person is not probable cause for an arrest. However, a person may be arrested under the following conditions:

- 1) Pursuant to §4507.35, if a driver does not have his license, and fails to provide satisfactory proof of a valid license, there is a legal presumption that he does not in fact have a valid license. Under those circumstances, the officer has probable cause to arrest the individual for a violation of §4507.02.
- 2) A person supplies satisfactory evidence of his license status by providing the officer with sufficient information, which will allow the officer to verify that license status from the state BMV.

Examples:

- If a person supplies a name and social security number which, when run through the BMV, does return a description which matches the suspect and does indicate that the license is valid, then sufficient evidence of a valid license has been provided. No further action is warranted.
- If a person supplies a name and social security number which, when run through the BMV, returns a description which indicates that there is a valid license under the name submitted, but the descriptive information does not match the subject, then sufficient evidence of a valid license has not been provided and an arrest may be made under §4507.02. Falsification and/or Obstructing Official Business may be additional options.
- If a person supplies a name and social security number and the officer is unable to run that information through the BMV due to the system being down and has no other way to verify the existence of a valid license, then sufficient evidence of a valid license has not been provided and an arrest may be made under §4507.02. With the availability of both police radios and MDTs, this situation should rarely occur.

- 3) Pursuant to §4507.35, if a driver does

have his license on his person, and refuses to display that license upon the demand of the officer, such action does constitute a first-degree misdemeanor. The person should be charged with a violation of §4507.35.

- a) This offense may be hard to establish, since the failure to have a license on his person does not give the officer the right to conduct a pat down or search for the license. Consequently, in cases where an individual tells the officer that he does not have a license on him, when in fact he does, but provides sufficient information to the officer to determine a valid license does exist, that person has committed a violation of §4507.35, but the officer may not know it.
 - b) This violation will normally be charged where the license is discovered pursuant to a search incident to a lawful arrest for some other incident (such as an open warrant or capias), or where the individual later admits to the officer he really does have the license on him.
- j. Officers encountering violations of Cincinnati Municipal Code (CMC) Section 506-11, Railroads Crossing Highways at Grade, will obtain the full name of the railroad company, its local business address, the name of the local ticket or freight agent, the name of the conductor of the train, and the name and address of the complainant, if any.
- 1) A district supervisor will respond to the scene to conduct an investigation.
 - a) Do not make citations or physical arrests solely for violation of CMC Section 506-11.

b) For violations in excess of 15 minutes, submit a Form 17 through the Patrol Bureau to the Municipal Court Prosecutor's Office requesting a court summons for the railroad company.

k. Officers engaged in police related outside employment are considered on duty for purposes of this procedure and should conduct themselves accordingly.

2. Off-duty enforcement guidelines

a. Off-duty officers who determine enforcement action is appropriate will contact Police Communications Section (PCS) to request an on-duty police officer and supervisor to respond to the scene to conduct the investigation. This applies to off-duty officers not engaged in police related outside employment, as defined in Procedure 19.140, Outside Employment.

1) If possible, the on-duty officer will make the arrest/citation with the off-duty officer serving as a witness.

2) The Department recognizes that in some cases an officer must take immediate action. In these cases, as soon as possible, the officer will contact PCS to request an on-duty supervisor to respond to the scene.

a) The responding supervisor will investigate the situation and submit a Form 17 to the Police Chief detailing the circumstances of the incident.

3) Officers will not try to stop vehicles while off duty unless it is a serious life-threatening situation.

B. Traffic Enforcement Guide

1. Individual police officer discretion and on-scene supervisory decisions should be guided by policy and specific situations.

2. Lack of hazardous circumstances in borderline violations may warrant enforcement action less than citation; i.e., warning.

Examples:

503-1 - Lights, General

Citation - Recurring violation, violation after warning, violation caused accident, or aggravated circumstances.

Warning - Most violations, with officer discretion dictated by above.

506-39 - Emerging from Alleys or Driveways

Citation - Failed to stop, stopped at place other than designated place (stop line) and interfered with pedestrian or vehicular traffic, or involved in accident with skidmarks crossing stop line.

Warning - Stopped but not at designated place (stop line) and did not interfere with traffic.

- a. Do not issue warnings for violations causing accidents.

3. Police officers must familiarize themselves with the City of Cincinnati Police Pamphlet and Ohio Revised Code - Motor Vehicle Laws for the legal requirements of each ordinance.

C. Speed Enforcement

1. Use only those speed measuring devices or methods approved by the Police Chief to enforce any ORC (Ohio Revised Code) or municipal ordinance relating to speed. They include measuring speed via pacing, radar, and laser.
2. Speed measuring devices will not be used if any known condition exists that endangers the officer or the public. Officers must use sound judgment when considering weather conditions, roadway conditions, traffic congestion, time of day, etc., before initiating the use of a radar or laser unit.

- a. Check radar and laser units daily for proper operation and calibration before using to enforce any ORC or municipal ordinance relating to speed. Immediately remove radar and laser units from service if the devices fail any portion of the calibration check procedure or are found to be in a state of disrepair.
 - 1) Return radar and laser units in need of repair to the Traffic Unit. They will coordinate the repair by the manufacturer or authorized representative. Make a unit blotter entry indicating the device has been removed from service.
 - 2) Traffic Unit will provide a spare radar or laser unit if available.
- b. Radar and laser units will be examined and field certified annually by their manufacturer or authorized representative for accuracy of the device and calibration accessories.
- c. Traffic Unit will maintain records of all radar and laser unit certifications as well as all repairs performed on these units.

D. Pacing

- 1. Pacing is the act of following a violator's vehicle at the same speed for a given distance, maintaining a set distance between the two vehicles, to establish the violator's speed. Speeds are determined by comparing the police vehicle's calibrated speedometer or speed measuring device to the speed of the violator's vehicle. A pacing distance of one-fourth of one mile is required before determining the violator's speed and enforcing any ORC or municipal ordinance relating to speed.
 - a. Pacing vehicles will not be used if any known condition exists that endangers the officer or the public. Officers must use sound judgment when considering weather conditions, roadway conditions, traffic congestion, time of day, etc., before pacing is used to enforce any ORC or municipal ordinance relating to speed.

- b. All marked vehicles are equipped with field certified speedometers upon receipt by the Police Department. Additionally, each marked vehicle's speedometer is professionally checked and certified accurate before the vehicle is put into service.
 - 1) Certificates of accuracy for all marked Department vehicles are maintained by Fleet Management Unit.
 - 2) Officers notified for court regarding a speeding citation issued based on the pacing of the violator's speed must contact the Fleet Management Unit as soon as possible upon receiving the court notify.
 - a) The Fleet Management Unit will assist the officer in having the vehicle's speedometer recertified before the court date to ensure the proper evidence is available in the event the case goes to trial.